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CORPORATIONS—STOCKHOLDERS' RIGHTS INCIDENT TO MEMBERSHIP—RIGHT OF HOLDER OF VOTING TRUST CERTIFICATES TO APPLY FOR RECEIVERSHIP.—The plaintiff owned voting trust certificates in the defendant corporation. He brought a bill in equity for the appointment of a receiver with out joining the trustees or previously making application to them. The New Jersey Laws of 1896 (p. 298, c. 185) entitled "any creditor or shareholder" to institute proceedings to wind up an insolvent corporation. *Held*, that the plaintiff is a proper party to bring such a bill. *O'Grady v. U. S. Independent Telephone Co.*, 71 Atl. 1040 (N. J., Ct. Err. & App.).

A *cestui* has only a right *in personam* against his trustee. Hence he can proceed in equity to enforce even an equitable demand against a third person only when the trustee is either unwilling or unable to proceed himself. *Morgan v. Kans. Pac. Ry. Co.*, 15 Fed. 55. And it follows that in such cases the trustee is a necessary party. See AMES, CAS. ON TRUSTS, 2 ed., 67. In the ordinary voting trust the stockholder surrenders his certificate representing his right against the corporation to the voting trustees and receives in return a voting trust certificate giving a right against the corporation only indirectly through the trustees. It is therefore impossible to support the principal case in not requiring the trustees to be joined. The New Jersey courts decided that "creditor" as used in this statute means a person entitled to share in the assets. *Gallagher v. Asphalt Co. of Am.*, 65 N. J. Eq. 258. They then deduced that a "stockholder" could be only a person also so entitled, and that one who had surrendered both his beneficial interest and his certificate, although still registered on the corporation's books, was not a stockholder, from which position it was but a short step to the present decision. *Hoober v. Basic Co.*, 69 N. J. Eq. 679.

COURTS—STATE COURTS—JURISDICTION OF ACTION AGAINST UNITED STATES OFFICER.—Land was conveyed to the United States subject to the condition that if it was not used for the purposes of the commission of fish and fisheries it should revert to the plaintiffs. The land was not so used, and the plaintiffs brought a writ of entry in the state court against the tenant in possession, who was the superintendent of the station of the United States fish commission. The defendant contended that his assertion of a right as an officer acting under the authority of the United States deprived the state courts of jurisdiction. *Held*, that the court has jurisdiction. *Fay v. Locke*, 87 N. E. 753 (Mass.).

The United States Supreme Court decided in a recent case that proceedings to enjoin a state attorney-general did not constitute a suit against the state within the prohibition of the Eleventh Amendment. *Ex parte Young*, 209 U. S. 123. The real rationale of that decision seems applicable here: whether the case is maintainable or not depends on whether the defendant officer is personally liable as a principal for his action, or whether the right involved demands that the United States be joined as a necessary party defendant. *Cf.* 21 HARV. L. REV. 527.

COVENANTS RUNNING WITH THE LAND—RUNNING OF BURDEN AGAINST PURCHASER OF COVENANTOR'S TITLE AT FORECLOSURE SALE.—The defendant's predecessor in title covenanted with the plaintiff to maintain a crossing over the plaintiff's right of way to which it was entitled by its franchise. The defendant was a purchaser at a foreclosure sale of a preëxisting mortgage of all its predecessor's property. *Held*, that the covenant does not run with the land. *Evansville, etc., Co. v. Evansville Belt Ry. Co.*, 87 N. E. 21 (Ind. App.). See NOTES, p. 597.

DAMAGES—MEASURE OF DAMAGES—DAMAGES FOR MENTAL SUFFERING IN ACTION FOR CONVERSION.—The defendant company's conductor, after a public altercation with the plaintiff, a passenger, wrongfully took up his commutation ticket. The plaintiff brought an action for conversion. *Held*, that, in addition to the value of the ticket, the plaintiff can recover damages for